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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

BED BATH & BEYOND INC, *et al.*,

Debtors.

Chapter 11
Case No. 23-13359 (VFP)

(Jointly Administered)

**CERTIFICATION OF JAIME
KIRKPATRICK**

I, Jaime Kirkpatrick, being of full age, hereby certifies as follows:

1. I am employed as a Chief Appraiser in the office of the Placer County Assessor. I have been employed with Placer County for the past 21 years and have held the title of Chief Appraiser for more than 10 years. I hold an advanced appraiser certification with the California State Board of Equalization with the Auditor-Appraiser designation. This certification is based upon my personal knowledge, as well as the books and records of the County. If called upon to testify in this action, I would testify competently to the matters set forth below.

**OVERVIEW OF CALIFORNIA STATE LAW REGARDING AD
VALOREM TAX ASSESSMENTS**

2. The California State Board of Equalization (SBE) is a state agency whose duties include assuring uniformity in the administration of the California property tax system. It assures uniformity in part by promulgating laws regarding assessments and local assessment appeals board proceedings, which have the force and effect of law, and are therefore binding on local assessors, local assessment appeals boards, and state courts. These laws are posted on the SBE's web page at: <https://www.boe.ca.gov/proptaxes/proptax.htm>.
3. There are several steps for property taxation in California: assessment, equalization, computation, and collection. The California Constitution establishes public offices to administer these steps and provide interrelated functions in the property tax system. The assessment and equalization functions contain numerous standards, procedures, and protections to ensure fair and uniform application of local property tax assessments, and the computation and collection functions are mainly ministerial.
4. The assessment process for business personal property and fixture assets starts with information provided by the taxpayer under oath. Under Section 441 of the California Revenue and Taxation Code, each person owning taxable personal property having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year or upon request of the assessor is required to file a signed property statement with the assessor.
5. This form is sent annually to the taxpayer who reports taxable assets owned at a particular location by type of property, year of acquisition, and acquisition cost.

Upon receipt of a properly completed statement, the Assessor determines the applicable valuation factors to be applied based upon information disclosed by the taxpayer. These factors are determined by the tables published annually in the SBE's Assessors' Handbook Section 581, Equipment and Fixtures Index, Percent Good and Valuation Factors (January 2023), available here:

<https://www.boe.ca.gov/proptaxes/pdf/ah58123.pdf> and published by the California Assessors' Association. The total value is computed by applying the applicable factor by acquisition year to the cost for each asset then enrolled for the assessment year. As a result, the auditor-appraiser determines the fair market value of the personal property and fixtures as of the January 1 valuation date for that year. (See Cal. Code Regs., tit. 18, section 3.).

6. If a taxpayer disagrees with a tax assessment, the taxpayer is required to file an assessment appeal per California Revenue and Taxation Code § 1603. The form of the written application is prescribed by the SBE. When the appeal is filed, the Assessor's Office will request a meeting with the taxpayer or its agent to discuss the issues.
7. If the Assessor's Office and the taxpayer cannot settle the dispute, it is heard by the Assessment Appeals Board. The California Constitution establishes assessment appeals boards or county boards of equalization in each county. These tribunals are mandated to hear and determine valuation disputes between assessors and taxpayers. All counties maintain such boards. These boards ensure that all real and personal property within the County is assessed fairly and according to applicable California

law. Assessment appeals boards are governed by statutes and rules promulgated by the SBE that provide extensive due process.

8. If a taxpayer or the assessor disagrees with a decision by the assessment appeals board, either may petition a California Superior Court for review. Judicial review is based solely upon the administrative record of the assessment appeals board hearing, and review of the evidence is limited to determination of whether substantial evidence exists to support the board's determination. The court reviews questions of law de novo. Superior courts should not determine property tax assessments, and if they overturn an assessment appeal board's determination the case is remanded back to the Board for proceedings consistent with the court's decision.
9. A County's determination of an assessed value is presumed to be valid per Property Tax Rule 321. (Cal. Code Regs. Tit. 18, § 321.)

DEBTORS AD VALOREM TAX ASSESSMENTS

10. California Revenue and Taxation Code section 441 requires each person/non-public entity owning taxable personal property having an aggregate cost of one hundred dollars (\$100,000) or more or upon request of the Assessor to annually file a business property statement with the assessor of each county where its property is located. On May 5, 2023, Bed Bath & Beyond of CA LLC and Buy Buy Baby Inc. submitted these statements to the Placer County Assessor's Office, signed by their VP of Tax under penalty of perjury.
11. The Debtors provided two (2) sworn statements listing all of their personal property and fixtures (collectively, the "Personalty") located at two (2) locations in Placer County, consisting of: (i) a then operating Buy Buy Baby store located at 1120

Galleria Boulevard, Suite 160, Roseville, California 95678 (the “Baby Location”), and (ii) a then operating Bed Bath and Beyond Store located at 1120 Galleria Boulevard, Suite 140, Roseville, California 95678 (the “Bed Location”, and collectively, the “Locations”). These statements were signed by Debtors’ *own* Vice President of Tax, Toni Anne Andrisano. Copies of Debtors’ sworn statements assessing the value of its Personalty at the Locations are annexed hereto as Exhibits A and B.

12. The Placer County Assessor's Office received these business property statements and processed the costs furnished on the statement by the officer of the company. While the Assessor processed the statements as reported, the opinion of value of the Assessor varied from the workpapers provided by the VP of Tax as follows:

- Bed Bath & Beyond (Asmt. #800-025-723-000)

\$5,140,860	Placer County’s Assessed Value
<u>\$4,207,211</u>	Bed Bath & Beyond’s Value
\$933,649	Difference

- Buy Buy Baby (Asmt. #800-040-043-000)

\$1,353,290	Placer County’s Assessed Value
<u>\$1,217,071</u>	Buy Buy Baby’s Value
\$136, 219	Difference

- The difference between these values is due to different depreciation factors chosen and applied by the parties to value fixtures. Placer County valued the fixtures as recommended by the California Assessors' Association.

13. The Baby Location's Personalty has an assessed valuation for 2023 of \$1,353,290.

Such valuation is based upon the sworn declaration of the Debtors' *own* Vice President of Tax, Toni Anne Andrisano. See Exhibit A. Debtors are seeking to drastically reduce their own valuation of the Personalty \$1,353,290 to \$59,083 (a reduction of approximately 96%).

14. The Bed Location's Personalty has an assessed valuation for 2023 of \$5,140,860.


Such valuation is also based upon the sworn declaration of the Debtors' Vice President of Tax, Toni Anne Andrisano. See Exhibit B. Debtors are seeking to drastically reduce their own valuation of the Personalty from \$5,140,860 to \$363,448 (a reduction of approximately 93%).

15. Notably, these values are determined as of January 1, 2023.

16. Placer County timely filed two proofs of claims regarding the Baby Location and the Bed Location as follows: (i) Claim Number 17910 filed on October 18, 2023 in the amount of \$15,821.03 for the Baby Location, and (ii) Claim Number 17909 filed on October 18, 2023 in the amount of \$60,075.72 for the Bed Location. Copies of these filed Proofs of Claim are annexed as Exhibits C and D, respectively.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Dated: November 7, 2023


Jaime Kirkpatrick